

**City of Miami Beach - City Commission Meeting
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
December 10, 2003**

Mayor David Dermer
Vice-Mayor Jose Smith
Commissioner Matti Herrera Bower
Commissioner Simon Cruz
Commissioner Luis R. Garcia, Jr.
Commissioner Saul Gross
Commissioner Richard L. Steinberg

City Manager Jorge M. Gonzalez
City Attorney Murray H. Dubbin
City Clerk Robert E. Parcher

Visit us on the Internet at **www.miamibeachfl.gov** for agendas and video "streaming" of City Commission Meetings.

ATTENTION ALL LOBBYISTS

Chapter 2, Article VII, Division 3 of the City Code of Miami Beach entitled "Lobbyists" requires the registration of all lobbyists with the City Clerk prior to engaging in any lobbying activity with the City Commission, any City Board or Committee, or any personnel as defined in the subject Code sections. Copies of the City Code sections on lobbyists laws are available in the City Clerk's Office. Questions regarding the provisions of the Ordinance should be directed to the Office of the City Attorney.

PA1	Cert. of Apprec./Parks & Recreation Department, National Accreditation from CAPRA.
PA2	Cert. of Apprec./"At Your Service" Employee of the Month Award for October & November 2003.
PA3	Cert. of Apprec./Rescuers in the Ring Charity Boxers. (Dermer)
PA4	W-Cert. of Apprec./William Farkas, Retiring from the South Florida Art Center. (Gross)
PA5	New Item: Proclamation/City of Miami Beach Special Olympians.
C2A	Issue PO, Purchase (1) 2004 Freightliner Swat Van, \$88,775.02.
C4A	Ref: Community Affairs Committee - Beatles Mandala Proposal for a Work of Public Art.
C6A	Report: Finance & Citywide Projects Committee Meeting of November 20, 2003.
C6B	Report: Neighborhoods Committee Meeting of November 24, 2003.
C6C	Report: G.O. Bond Oversight Committee Meeting of December 1, 2003.
C7A	Resubmit Grant Applications: 1) Department of Environmental Protection; and 2) FDOT.
C7B	Execute Agreement w/ EDAW, Miami Beach Botanical Garden Improvement Project.
C7C	Accept Recommendation, Appointment of Chief Special Master.
C7D	Approve Amendment to Lease Agmt w/ MBWC, 6500 Indian Creek Drive.
C7E	Approve Settlement, Liens on Property at 701 Collins Avenue (Collins Manor Condominium).
C7F	Set Public Hearing, Proposed Designation of North Beach Resort Historic District.
C7G	Retroactively Execute an Interlocal Agmt w/ M-DC, Palm & Hibiscus Island Guard Services.
C7H	Approve Revised Guidelines, Multi-Family Housing Rehabilitation Program.

REGULAR AGENDA

- R2A BA 27-02/03, ADA & Public Interior Design Enhancement Renovations for TOPA.
- R5A **10:15 a.m. 2nd Rdg**, Amend No. 789 Classified Employees Salary Ordinance (Classifications).
R5B **10:20 a.m. 2nd Rdg**, Amend No. 1605 Unclassified Employees Salary Ord. (Classifications).
R5C **10:30 a.m. 1st Rdg**, Permitting Commercial Uses in Apartment Buildings in RM-2 District. **5/7**
R5D **2:00 p.m. 1st Rdg**, Amend Code, CCC Civic & Convention Center District. **5/7**
R5E **5:01 p.m. 1st Rdg**, Comprehensive Plan Amendment - Round # 03-2. **5/7**
R5F **5:01 p.m. 1st Rdg**, Amendment to Official Zoning District Map & Land Dev. Regulations. **5/7**
- R6A Verbal Report: Special Finance & Citywide Projects Committee Meeting of December 5, 2003.
R6B Verbal Report: Land Use & Development Committee Meeting of December 8, 2003.
R6C Verbal Report: Community Affairs Committee Meeting of December 9, 2003.
- R7A **3:00 p.m.** Approval of MBCC for Events Involving Adult Materials. **5/7**
R7B Approve Amendment to Agmt w/CH2MHill, Bayshore Neighborhood ROW Improvement Project.
R7C **11:15 p.m.** Execute HOME Program Agmt, Provide (55) Rental Units for Eligible Residents.
R7D Approve City's State Legislative Agenda for 2004.
R7E **2:30 p.m.** Approve Issuance/Sale, Health Facilities Authority Hospital Rev. Refunding Bonds.
R7F **4:30 p.m.** Execute Settlement Agreement w/ La Gorce Country Club, Inc.
R7G **11:00 a.m.** Authorize City Manager to Decline the Right of First Offer Transaction (Pelican).
R7H City Attorney's Annual Evaluation.
R7I City Manager's Deferred Compensation.
R7J Accept Proposed GMP, Pre-Construction Services for Fire Station No. 2 Renovation/Expansion.
R7K Call for Special Election on March 9, 2004, re: Park/Waterfront Property at 2620 Biarritz Drive.
- R9A **3:15 p.m.** Board and Committee Appointments.
R9A1 Nominate Michael Gongora to the Board of Adjustments. (Steinberg)
R9A2 Appoint Rosalia Lopez to Serve on the City's Housing Authority Committee. (Dermer)
R9B1 **1:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
R9B2 **5:30 p.m.** Dr. Stanley Sutnick Citizen's Forum.
R9C **2:45 p.m.** Charter Review Board Proposed Amendments to City Charter.
R9D Nightlife Industry Task Force - Extension of Hours for New Year's Eve 2003.
R9E **4:45 p.m.** Disc. Scott Rakow Youth Center. (Gross)
- R10A **Noon Break**, Executive Session - La Gorce Country Club, Inc. vs. CMB.

REPORTS AND INFORMATIONAL ITEMS

- A City Attorney's Status Report.
B Parking Status Report.
C Status Report on Fire Station No. 2.
D Status Report on Fire Station No. 4.
E Report on Federal, State, County & Existing City Contracts for Renewal/Extensions.

REDEVELOPMENT AGENCY ITEMS - 10:00 A.M.

- 2A Report of Itemized Revenues/Expenditures of RDA for Month of October 2003.

Meeting called to order at 9:17:16 a.m.

Inspirational message given by Father Tito Soler from St. Patrick's Catholic Church.

Pledge of Allegiance led by Firefighter Mike Timmony.

Times based on the digital recording in the TV's Control Room

Supplemental Materials: C7E (Resolutions), R7G (Resolutions), R7I (Resolutions), R9C Additional Information and Revised Resolution,

PA - Presentations and Awards

PA1 Certificate Of Appreciation To Be Presented To The Parks And Recreation Department, For Receiving The National Accreditation From The Commission On Accreditation Of Park And Recreation Agencies (CAPRA).

(City Manager's Office)

ACTION: Not reached. Lilia Cardillo to place on January 14 Commission Agenda.

PA2 Certificates Of Appreciation, "At Your Service" Employee Of The Month Award For October And November 2003.

(City Manager's Office)

ACTION: Certificates presented to Paula Calderon, Sanitation/City Clerk's Office for the Month of October 2003, and Tasha Whittingham, Miami Beach Police Department for the Month of November, 2003.

Chief Ray Martinez, Police Department, stated that Tasha is one of the hardest working individuals in the Police Department. He stated that she plays a lead roll coordinating the toy drive, the Hispanic Heritage Luncheon and the Citywide Holiday party.

Tasha Whittingham spoke.

Fred Beckmann, Public Works Director, stated that it is a great pleasure to honor Paula Calderon. She is recognized for her participation on the Hispanic Heritage Luncheon since she took that project to heart. He also stated that Paula has a "can do attitude."

Paula Calderon spoke.

PA3 Certificates Of Appreciation To Be Presented To Rescuers In The Ring Charity Boxers.
(Requested by Mayor David Dermer)

ACTION: Certificates presented to:

US Coast Guard Fighters: David Allen, "Wild Bill" Senert, and Joseph Williams.

Miami Beach Fire Department: Mike Timmony, Ronnie Sanchez, Charleton "Bring on the Heat" Price, Nelson Gonzalez, George Le Don and Eric "the Rack" Rodriguez.

Miami Beach Patrol: Vince Andreano, Keith Keyes, Arnaldo Guillen and Orlando Artiz.

Miami Beach Police Department: Alkareem Azim, Samir Guerrero, Eugene Rodriguez, Alex Carulo, and Jimmy "The Pitt Bull" Gotsis.

Volunteer: Scott Rummans.

Organizer: Trevor Cedar.

Team Mascott: Bernie Winer.

Trainer: Luis Lagerman

Cornerwoman: Jolie Cedar

Trainer: Matt Baiamonte

Cornerman: Vic Andretti

Fight Doctor: Dr. Alan Fields

Professional Fighter: Alex Brenes

Professional Fighter: David Estrada

Cornerman: Rich Hafferty

Officer Robert Jenkins, President of the Miami Beach Fraternal Order Of Police (FOP), presented Mayor David Dermer, on behalf of Police Athletic League (PAL) with a plaque thanking him for his support.

New Item:

PA4 Certificate Of Appreciation To Be Presented To William Farkas After Retiring As Executive Director For The Past Two Years of the Art Center, South Florida.
(Requested by Commissioner Saul Gross)

ACTION: Item withdrawn.

New Item:

PA5 Proclamation Presented to the City of Miami Beach Special Olympians.

ACTION: Proclamation presented.

Proclamation presented to the Parks and Recreation Department and honoring Miami Beach Parks and Recreations Special Olympians: Ernesto Del Castillo, David Grossbaum, and Donald Selick.

Kevin Smith, Parks and Recreation Director, stated that each one of the Olympians have placed on the state competition and have participated in the program since 1987.

CONSENT AGENDA

ACTION: Motion made by Commissioner Steinberg to approve the Consent Agenda; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Commissioner Cruz.

C2 - Competitive Bid Reports

- C2A Request For Approval To Issue A Purchase Order To Prison Rehabilitative Industries And Diversified Enterprises, Inc. (Pride, Inc.) For The Purchase Of One (1) 2004 Freightliner Swat Van. In The Amount Of \$88,775.02.
(Fleet Management)

ACTION: Award approved. Gus Lopez to issue Purchase Order. Drew Terpak and Chief De Lucca to handle.

C4 - Commission Committee Assignments

- C4A Referral Of The Beatles Mandala Proposal For A Work Of Public Art To Be Commissioned, As Recommended By The Art In Public Places Committee To The Community Affairs Committee.
(Tourism & Cultural Development)

ACTION: Item referred. Mayra Buttacavoli to place on the agenda. Donna Shaw to handle.

C6 - Commission Committee Reports

- C6A Report Of The Finance And Citywide Projects Committee Meeting Of November 20, 2003: **1)** Discussion Of The Requests By Miami-Dade County For The City Of Miami Beach Commission, As The Governing Body Of The Redevelopment Agency, In Its Sole Discretion, To: A) Exempt The Children's Trust, An Independent Taxing District, From Contributing Its Ad Valorem Tax Levy To The City's Redevelopment Trust; And B) Impose A 1-1/2 Percent Administrative Fee On The Redevelopment Agency's Proposed FY 2003/04 Budget; **2)** Update Regarding Penrod Brothers, Inc. Request For A Referendum Regarding Their Lease Agreement For The City Owned Property Located At One Ocean Drive; **3)** Financial Update On Mount Sinai Medical Center And Discussion On Upcoming Proposed Bonds To Be Issued Through Health Facilities Authority; **4)** A Discussion On The ADA And Public Interior Design Enhancement Renovations For The Jackie Gleason Theater Of The Performing Arts (TOPA); **5)** A Discussion On The Status Of The Normandy Shores Golf Course; **6)** The Establishment Of A Dedicated Source Of Funding For Our Cultural Arts Council; And **7)** Review And Discussion, The Proposed Concession Agreements With Market Company, Inc., For The Lincoln Road Green Market, The Espanola Way Market And The Normandy Village Market.

ACTION: Written report submitted.

Item 1(A-B)

No action necessary. Status update was given.

Item 2

No action necessary. Status update was given.

Item 3

Item Deferred.

Item 4

The Committee voted to reject all bids received for the ADA and Public Interior Design Enhancement Renovations for the Jackie Gleason Theater of the Performing Arts. **See Item R2A.**

Item 5

The Committee recommended that the Administration proceed to seek funding sources for Construction Alternate 1 for the Normandy Shores Golf Course Project. The Committee further directed the Administration to come back to the Finance and Citywide Projects Committee with a report detailing such funding options for the project. **See Item R7K**

Item 6

Item Deferred until Special Commission Workshop Discussing Funding for the Arts.

Item 7

The Committee instructed the Administration to report back to next Finance and Citywide Projects Committee the results of negotiations with Market Company, Inc. in regards to the following three issues:

- Fees for Vendor/Merchant Spaces
- Off-Duty Police
- Fee/Concession Revenue

- C6B Report Of The Neighborhoods Committee Meeting Of November 24, 2003: **1)** Discussion Regarding The Revised Guidelines For The City Of Miami Beach Multi-Family Housing Rehabilitation Program; **2)** Review The City's And MBCDC's Policy Regarding Acquiring Buildings In Better Shape And Provide More Affordable Housing; And **3)** A Discussion Regarding \$309,469 In HOME Programs Towards The Cost Of Rehabilitation Of 530 Meridian Avenue.

ACTION: Written report submitted.

Item 1

The Committee unanimously passed a motion regarding the revised guidelines for the City of Miami Beach Multi-Family Housing Rehabilitation Program. **See Item C7H.**

Item 2

Item deferred to the next Neighborhoods Committee Meeting.

Item 3

The Committee directed the Administration to finalize the details regarding the process of preference to Miami Beach homeless; the Committee did not make a motion on this item.

- C6C Report Of The General Obligation Bond Oversight Committee Meeting Of December 1, 2003: **1)** Change Order Report; **2)** Presentation: A) South Pointe Community Center; **3)** Recommendation To City Commission: A) Bayshore Neighborhood A/E Amendment For Design, Bid, Award And Construction Administration; B) Award A/E Agreement For Botanical Garden; C) Fire Station #2 Project Status Report And Recommendation To Either Award Or Reject Fire Station # 2 Construction Contract; **4)** Project Status Report: A) Fire Station # 4; B) Normandy Isle Park And Pool; C) Indian Creek Greenway; D) North Shore Open Space Park; **5)** Informational Items: A) Updated Calendar Of Scheduled Community Meetings.

ACTION: Written report submitted.

Item 1

The Administration informed the Committee of the new change orders had been approved. A list of those change orders is attached as "Exhibit A".

Item 2(A)

A presentation on the South Shore Community Center was reviewed. The Administration informed the Committee that the renovation of the facility would take place in phases. The first phase would include improvements to the major systems (elevator, fire alarm, windows, roof, restrooms, insulation, fire code, ADA improvements) in the facility on the second floor, and was scheduled for construction during Fiscal Year 2004. Construction costs for the first phase are estimated at \$785,000. Funding for the construction was to be paid in part from General Obligation Bond funds, with the tenant supplementing that funding for tenant-requested improvements.

Phase II of the project was scheduled for construction during Fiscal Year 2005, and would include renovations to the major systems on the first floor. Construction costs are estimated at \$540,000. Phase III would include exterior improvements, such as fencing, landscaping,

repaving, drainage and tot lot improvements. Phase III would be constructed during Fiscal Year 2006, if sufficient funding exists.

The Administration explained that tenants would not need to relocate during the renovation, and that the phased construction was meant to minimize the impacts to the tenants.

Item 3(A)

At the November 3, 2003 Committee meeting, the Administration recommended that the Committee recommend that the City Commission amend the A/E Agreement with CH2M Hill for the **Bayshore Neighborhood Right-of-Way Infrastructure Improvement** project in the amount of \$1,913,302.

For the Bayshore Right of Way Improvement Program, the initial contract agreement with A/E Consultant, CH2M Hill, was for planning services only. On April 7, 2003, the Committee approved the Bayshore Basis of Design Report (BODR). On April 9, 2003, the City Commission approved the BODR. Negotiations for Design, Bid/Award and Construction services began in May 2003. The CIP Office and CH2M Hill staff worked to come to agreement on the appropriate fee for the additional work, which covers work in four bid packages. On October 14, 2003, agreement between the City and CH2M Hill was reached on a fee proposal for services in an amount not to exceed \$1,913,302. This fee is broken down as follows: \$496,009 from 1999 General Obligation Bonds, \$812,365 from Series 2000 Stormwater Revenue Bonds, and \$604,928 from Series 2000 Water and Sewer Revenue Bonds. The breakdown of this amount per remaining phase (Design, Bidding and Award, and Construction Administration) and Reimbursable Expenses is as follows: \$1,130,878 for Design, \$59,224 for Bidding and Award, \$371,441 for Construction Administration, and \$351,760 for Reimbursable Expenses.

The Administration explained that the fee, although high, was still within an acceptable range. Due to the size of the area under consideration, and the complexity of the project (being 4 separate bid packages being constructed at different times), the City recommended the fee as being fair and reasonable. The Committee expressed concern that the fee for the remaining phases is a higher percentage of the project budget than in other projects. On average, the City is paying about 10% of the project budget in A/E fees for the Right-of-Way Infrastructure Improvement Program. In this case, if the fee proposed is awarded, the percentage would be closer to 14% of the project budget.

The Administration explained that the consultant sometimes used to assist in agreement negotiations, Pappas and Associates, recommended a fee of approximately \$1.55 million. The Committee felt that the \$350,000 differential between the recommendation from Pappas and Associates and the proposal from CH2M Hill was too large. The Committee approved a motion to defer its vote on this issue until the next Committee meeting, currently scheduled for December 1, 2003. The Committee asked that the Administration work with CH2M Hill in the meantime and see if they would accept an agreement in the amount of \$1.6 million with the understanding that if it was found that additional hours were needed, that CH2M Hill could come back and ask for additional services at that time, and the Committee would be willing to consider that request.

At the December 1, 2003 meeting, the Administration reported that discussions were held with CH2M Hill regarding a lower fee. CH2M Hill considered the request, and responded that after further evaluation the fee proposal will stand since they consider it to be their best estimate for the services required. After consideration and discussion, the Committee made a motion to

recommend that the City Commission amend the City's agreement with CH2M Hill for the Design, Bid/Award and Construction Administration services in an amount not to exceed \$1,913,302. The motion passed, with objections from Jean- François LeJeune and Michael Rotbart.

Item 3(B)

The Administration informed the Committee that negotiations with EDAW to have them serve as the A/E for the Master Plan portion of the **Botanical Garden** project had been completed. In the course of negotiations, it became clear that it would be difficult to accurately quantify the costs of designing improvements that had not been clearly identified yet. For this reason, the fee negotiations were limited to the planning phase of the project. Once the planning phase is completed and the actual desired and fundable improvements are identified, it will be possible to negotiate the fee for design and construction administration. For the planning phase of the project, a fee of \$86,000 was negotiated. The planning phase will address both funded and un-funded improvements.

The Administration told the Committee that although the typical project planning effort focuses primarily on funded improvements, the proposed planning effort would include the study of currently unfunded project components that are anticipated to be implemented through additional future project phases. Therefore the proposed \$86,000 fee represents a higher percentage of total available funding than is usually allocated for a project planning effort.

During the course of negotiations, City staff met with members of the Miami Beach Garden Conservancy (Conservancy) to determine if there were elements of the project scope of work which were likely not achievable and could be removed to reduce the planning fee. However, meeting attendees were unable to identify scope components which could be eliminated or postponed to future phases without having first undertaken a comprehensive planning effort. The Conservancy members supported the negotiated planning fee as appropriate given the challenge of prioritizing the multiple scope elements and accommodating them on the relatively small project site. In a letter of commitment dated November 18, 2003, the Conservancy also pledged to reimburse the City for \$10,000 of the proposed \$86,000 fee to demonstrate their support for the project. The letter also restates the Conservancy's commitment to raising the substantial additional project funding that will be required to implement all of the project elements that will be identified in the planning phase.

Members of the Conservancy spoke in favor of moving forward with the project as recommended by the City Administration. The Committee unanimously passed a motion to recommend that the City Commission award the A/E agreement for the planning portion of the Botanical Garden project to EDAW.

Item 3(C)

The Administration updated the Committee on the status of the Water Tank and Pump Station portion of the rehabilitation of **Fire Station No. 2** is still progressing smoothly. Jasco, the contractor, is working on the construction of the tanks. The project is on schedule for completion in May 2004.

The Committee was told that the City had completed discussions with Jasco for the Guaranteed Maximum Price (GMP) for construction of Fire Station No. 2, which was scheduled to be brought to the City Commission on December 10, 2003. The City Commission's last direction was for Jasco to perform the work on the water tank portion of

the project, and for the Administration to evaluate Jasco's performance, secure a third party estimate for the construction cost of the Fire Station rehabilitation and construction, and to negotiate with Jasco for the GMP.

The Administration informed the Committee that all of these steps had been conducted, and Jasco's proposed GMP was \$8,337,510. The Administration informed the Committee that this amount exceeded the available funding, but that several project components in the current project scope had not previously been budgeted for appropriately, such as a third floor Emergency Operations Center (EOC), extensive site work, and miscellaneous soft costs. The Committee was also told that the original estimate and funding was done in 1996, so cost escalations also had to be considered. Evaluation of the Independent cost estimate demonstrated that Jasco's proposal was approximately \$1 million higher than market prices, but that the estimates were from earlier in 2003, and market prices had changed since the estimate was obtained. Jasco would also be able to start construction on the buildings approximately 60 days earlier than a new contractor, because they already occupy the site while constructing the water tank portion.

The Committee recommended that City Commission award the Fire Station No. 2 building rehabilitation and construction to Jasco at the Guaranteed Maximum Price proposed. Jean-François LeJeune objected. **See Item R7J.**

Item 4(A)

The Committee was told that the drawings for the demolition of the existing **Fire Station No. 4** have been approved. However, due to the ordinance requirements regarding demolition of structures within historic sites, a demolition permit cannot be issued, and the City cannot demolish the existing Fire Station building until a building permit on the new Fire Station is issued. As soon as the plans for the new Fire Station are approved by the Building Department, estimated to be the end of December 2003 or early January 2004, Carivon (JOC Contractor) has agreed to pull the permit on the new building and to demolish the existing building. This means that demolition is estimated to occur in January 2004, but this date is dependent upon the Building Department review process noted above.

The construction drawings for the new fire station were submitted to the City's Planning Department on October 27, 2003 for preliminary review and permitting in accordance with the previously reported schedule. The Planning Department has reviewed the construction drawings, and issued a few comments. The drawings are being reviewed by the Building Department. Once the Building Department has completed its review, the consultant will address any comments still outstanding for final review and permit.

Item 4(B)

The Administration informed the Committee that Regosa, the contractor for the **Normandy Isle Park and Pool** project, is still taking steps to correct deficiencies on the work that had not previously been accepted. Regosa is also still working on creating a recovery plan. The project will still be behind schedule.

Item 4(C)

The Administration informed the Committee that Phase I of the **Indian Creek Greenway** project, had been transferred to the CIP Office. The Administration is negotiating with the A/E for the Oceanfront Neighborhood Right-of-Way Infrastructure Improvement Project to add the scope as an amendment to the A/E Agreement. The Administration informed the

Committee that a discussion will be held by one of the City Commission Committees about how to work with the particular land owners to obtain easements or deeds to be able to construct the full project. **Robert Middaugh to handle.**

Item 4(D)

The Administration outlined the work involved in the first three phases of the **North Shore Open Space Park** project. Phase I included the selective clearing of exotic vegetation, new landscaping with native vegetation species between the back of dune and coastal hammock areas, and new irrigation. The value of this construction was \$469,193, and has been completed. Phase II included removal of the existing guardhouses, construction of a 15' wide asphalt pathway, installation of unit pavers at the 79th and 85th streets entrances to the park, new lighting, new vita course, drinking fountains, landscaping and irrigation. The value of this construction was \$448,748, and has been completed except for minor repairs to the walkway which will be corrected by the City with monies deleted from the contractor's final payment. Phase III includes the renovation, improvements and additions to three Restroom Buildings, renovation of two existing shade pavilions with additional walkways and ADA access, two new sign walls at North and South entrances of the park, new playground equipment, and new gated site entries. The value of this construction is estimated at \$445,000. The project is currently being reviewed for permit by the City's Building Department and also by the State of Florida for compliance with coastal regulations. Construction is estimated to begin in the Spring of 2004, and take one year.

The Committee was told that the **North Shore Park and Youth Center** project was scheduled for completion in December 2003 or January 2004, depending on the phase being considered.

The Committee was advised that Phase I of the **Scott Rakow Youth Center** project (ice rink) is almost 99% complete. The Administration has filed for a change of contractor. The Administration will keep the Committee informed of tentative completion schedules when one is received from the replacement contractor.

Item 5

The updated calendar of community meetings was presented to the Committee, but not reviewed during the meeting.

The Committee was provided with a list of the Committee meeting dates for 2004, and adopted them.

C7 - Resolutions

- C7A A Resolution Authorizing The City Manager Or His Designee To Resubmit Grant Applications For The Following Funds: 1) Department Of Environmental Protection For Fiscal Year 2004-05 House Bill 851 Water Project Funding; 2) Florida Department Of Transportation, For Highway Beautification Funding For Alton Road; While Leveraging Previously Appropriated City Funds As Needed; Further Appropriating The Grants If Approved And Accepted By The City And Authorizing The Execution Of All Necessary Documents Related To These Applications
(Grants Management)

ACTION: Resolution No. 2003-25422 adopted. Judy Hoanshelt to submit grant applications. Patricia Walker to appropriate the funds if awarded and accepted by the City. Fred Beckmann to handle.

- C7B A Resolution Authorizing The Execution Of An Agreement With EDAW, In The Not To Exceed Amount Of \$86,000 For The Provision Of Planning Services For The Miami Beach Botanical Garden Improvement Project With Funding Provided By The Series 2000 General Obligation Bond.

(Capital Improvement Projects)

ACTION: Resolution No. 2003-25423 adopted. Tim Hemstreet to handle.

- C7C Appointment Of Chief Special Master.

1. A Resolution Accepting The Recommendation Of The Miami Beach City Manager Concerning Appointment Of Judge Robert Newman To Serve As Chief Special Master, Commencing January 1, 2004, And Ending June 30, 2004, Or Until A Successor Has Been Appointed, Who Shall Be Authorized To Hold Hearings And Impose Fines, Liens And Other Non-Criminal Penalties Against Violators Of City Codes And Ordinances, And Shall Also Be Authorized To Appoint Such Other Special Masters As May Reasonably Be Required To Conduct The Subject Hearings; Incorporating All Other Matters Set Forth Within City Of Miami Beach Resolution No. 98- 22777 Concerning The Compensation And Duties Of The Chief Special Master.

ACTION: Resolution No. 2003-25424 adopted. Robert Parcher to handle.

2. A Resolution Accepting The Recommendation Of The City Manager Concerning The Appointment Of Judge Robert Newman To Serve As Chief Special Master Commencing January 1, 2004, And Ending June 30, 2004, Or Until A Successor Has Been Appointed, Who Shall Be Authorized To Hold Administrative Hearings Regarding Appeals From Citations For Violations Of Miami Beach City Code Chapters And Regarding Denials, Suspensions, And Revocations Of Occupational Licenses And Certificates Of Use, And To Appoint Such Other Special Masters As May Reasonably Be Required To Conduct Such Hearings Pursuant To City Ordinances.

(City Clerk's Office)

ACTION: Resolution No. 2003-25425 adopted. Robert Parcher to handle.

- C7D A Resolution Approving An Amendment To That Certain Amended And Restated/Consolidated Lease Agreement By And Between The City Of Miami Beach And Miami Beach Watersports Center, Inc. (MBWC), For A Parcel Of Land And Facilities Located At 6500 Indian Creek Drive, Miami Beach, Florida, Amending Paragraph 15.6 Of Said Agreement, By Extending The Date, By A Period Of Three (3) Months, From November 28, 2003 To February 28, 2004, For The MBWC To Obtain A Final Building Permit For The Proposed Improvements To Parcel "A."

(Economic Development)

ACTION: Resolution No. 2003-25426 adopted. Joe Damien to handle.

Supplemental Materials: (Resolution)

- C7E A Resolution Approving A Settlement Regarding Liens On The Property At 701 Collins Avenue, Miami Beach, Owned By Collins Manor Condominium In The Amount Of \$137,365 Be Waived And Further Authorizing The City Manager And City Clerk To Execute Any And All Documents Necessary To Effectuate The Settlement And Lien Release.
(Neighborhood Services)

ACTION: Resolution No. 2003-25427 adopted. Vivian Guzman to handle.

- C7F A Resolution Setting A Public Hearing To Consider The Proposed Designation Of The North Beach Resort Historic District By Amending The Land Development Regulations Of The Miami Beach City Code; Amending Section 118-593, "Historic Preservation Designation"; Amending Section 118-593(E), "Delineation On Zoning Map"; Amending Section 118-593(E)(2), "Historic Preservation Districts (HPD) By Designating The North Beach Resort Historic District, Consisting Of A Certain Area Which Is Generally Bounded By The Southern Lot Lines Of 6084 Collins Avenue, 6261 Collins Avenue, And 210-63rd Street To The South, The Centerline Of 71st Street To The North, The Centerline Of Collins Avenue And The Western Lot Lines Of Certain Properties Fronting On Collins Avenue To The West (Including 6084 Collins Avenue, 6300 Collins Avenue, And 6574 To 6650 Collins Avenue), And The Erosion Control Line Of The Atlantic Ocean On The East (Excluding 6605 Collins Avenue), As More Particularly Described In The Ordinance.
(Planning Department)

ACTION: Resolution No. 2003-25428 adopted. Public hearing scheduled for January 14, 2004. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

- C7G A Resolution Retroactively Approving And Authorizing The Mayor And City Clerk To Execute An Interlocal Agreement Between The City Of Miami Beach And Miami-Dade County, Florida, Securing Off-Duty City Of Miami Beach Police Officers To Perform Guard Services For The Palm And Hibiscus Island Security Guard Special Taxing District.
(Police Department)

ACTION: Resolution No. 2003-25429 adopted. Chief De Lucca to handle.

- C7H A Resolution Approving And Adopting Revised Guidelines For The City Of Miami Beach Multi-Family Housing Rehabilitation Program.
(Neighborhood Services)

ACTION: Resolution No. 2003-25430 adopted. Vivian Guzman to handle.

End of Consent Agenda

REGULAR AGENDA**R2 - Competitive Bid Reports****9:39:21 a.m.**

- R2A Request For Approval To Reject All Bids Received Pursuant To Bid No. 27-02/03 For The ADA And Public Interior Design Enhancement Renovations For The Jackie Gleason Theater Of The Performing Arts.
(Capital Improvement Projects)
(Deferred from November 25, 2003)

ACTION: Approval to reject all bids received. Motion made by Commissioner Steinberg; seconded by Vice-Mayor Smith; Voice vote: 5-0; Absent: Commissioners Bower and Cruz. Gus Lopez to notify bidders.

City Clerk's note: At the November 25, 2003 Commission meeting, the Administration was authorized to issue a new bid.

R5 - Ordinances**10:24:02 a.m.**

- R5A An Ordinance Amending Ordinance No. 789, The Classified Employees Salary Ordinance, By Establishing The Classification Of Sign Maker In Group I, Being The Classifications Covered By The American Federation Of State, County, And Municipal Employees, (AFSCME), Local No. 1554; By Establishing The Classifications Of Meter Analyst, Revenue Processor 1, And Revenue Processor 2 In Group IV, Being The Classifications Covered By The Communication Workers Of America (CWA), Local 3178; By Providing For The Classifications In Group V, Being Those Classifications Covered By The Government Supervisors Association Of Florida, OPEIU Local 100, (GSAF), In Accordance With The Negotiated Agreement, Changing The Minimum And Maximum Of The Pay Ranges To Reflect The Present Classification And Pay System Applicable To The Unclassified Classifications, Retroactively, Effective With The First Pay Period Ending In October 2003; Increasing The Salary Of Each Employee By Two And One Half Percent (2.5%), Retroactively, Effective The First Pay Period Ending In October 2003; Providing For A Repealer, Severability, Effective Date, And Codification. **10:15 a.m. Second Reading, Public Hearing.**

(Human Resources)
(First Reading on November 25, 2003)

ACTION: Public Hearing held. **Ordinance Number 2003-3432 adopted.** Motion made by Commissioner Steinberg; seconded by Vice-Mayor Smith; Ballot vote: 7-0. R. Parcher to transmit to Municipal Code Corporation. T.C. Adderly to handle.

Handout or reference materials:

1. Notice of Ad in The Miami Herald

10:31:11 a.m.

11:32:31 a.m. (See motion to reconsider)

R5B An Ordinance Amending Ordinance No. 1605, The Unclassified Employees Salary Ordinance, By Establishing The Classifications Of Assistant Director - Tourism And Cultural Development, City Engineer, Code Compliance Manager, Right-Of-Way Supervisor, Procurement Coordinator, And Customer Service Liaison; Amending The Titles Of The Classifications Of Cultural Arts Division Director To Cultural Affairs Program Manager And EMS Training Coordinator To EMS Coordinator; Providing For A Repealer, Severability, Effective Date, And Codification. **10:20 a.m. Second Reading, Public Hearing.**
(Human Resources)
(First Reading on November 25, 2003)

ACTION: Public Hearing held. **Ordinance Number 2003-3433 adopted.** Final motion made by Commissioner Bower; seconded by Commissioner Steinberg; Ballot vote: 6-1; Opposed: Commissioner Garcia. R. Parcher to transmit to Municipal Code Corporation. T.C. Adderly to handle.

David Kelsey, South Beach Hotel and Restaurant Association, asked if this would increase the overall cost of City government.

Jorge Gonzalez, City Manager, stated that the action today is creating titles and pay grades for the titles. These are positions that are currently in the budget. The Administration is not requesting to add positions. This action is classifying positions appropriately.

Commissioner Garcia stated that he is uncomfortable with reclassifying positions because in the long run it will increase the budget. He also stated that the City eliminated the Assistant Code Compliance Director and now they are adding a Code Manager to promote somebody to that position.

Commissioner Cruz stated that there have been a lot of reclassifications during the past years and it is difficult for the City Commission to understand the impact. He stated that the Administration needs to provide the City Commission with an exact explanation as to what is being done, what is being added or eliminated, and how is it impacting the budget. **T. C. Adderly to handle.**

Jorge Gonzalez, City Manager, stated that the Administration will be happy to provide this information in the future. In addition, the information is shared during the budget process.

At 11:30:19 a.m., after the item had already been approved, Richard McKinnon, President of CWA, Local 3178, spoke about the reclassification, as it relates to the elimination of positions from the CWA bargaining unit.

11:32:31 a.m.

Motion made by Commissioner Gross to reconsider the item for the purpose of discussion; seconded by Commissioner Cruz; Voice vote: 7-0.

Jorge Gonzalez, City Manager, explained the following: The position is classified and it will be determined where the position will reside, either unclassified, other, or in a bargaining unit. It is the City's preference that supervisory positions do not reside in the same bargaining unit as the individual they supervise. This does not always happen and some

bargaining units have supervisors and members in the same bargaining units. When there is a question of this type, the Employees Relations Commission (PERC) will determine the appropriate bargaining unit.

Commissioner Garcia stated that the City Commission is being asked to vote on legislation where all of the information has not been provided.

Jorge Gonzalez, City Manager, stated that the item has been presented in the same manner in which it has been presented for years. The next presentation will be better. **T. C. Adderly to handle.**

Commissioner Bower requested that in the future the Administration inform the unions when positions are being reclassified. **Linda Gonzalez to handle.**

Richard McKinnon, President of CWA Local 3178, stated that the Administration is trying to take the Code Compliance Administrators out of the bargaining unit and the bargaining unit is opposed.

Commissioner Gross asked the Legal Department if this issue is in the jurisdiction of the City Commission.

Murray Dubbin, City Attorney, explained that this issue is covered by the union contract, and the Commission has the right to do what they need to do in order to operate the City properly.

Jorge Gonzalez, City Manager, stated that the ultimate decision is made by the Public Employees Relation Commission (PERC).

Richard McKinnon, President of CWA Local 3178, stated that the City Commission creates new classifications. In this case the Commission did it without knowing that the CWA objected.

Mayor Dermer stated to Mr. McKinnon that his objections are noted.

Final motion made by Commissioner Bower to approve the ordinance; seconded by Commissioner Steinberg; Voice Vote 6-1; Opposed: Commissioner Garcia.

Handout or reference materials:

1. Notice of Ad in The Miami Herald

6:01:10 p.m.

R5C Amendment To Allow Commercial And Retail Accessory Uses In Apartment Buildings In The RM-2, Residential Multifamily Medium Intensity Zoning District.
An Ordinance Amending The Code Of The City Of Miami Beach, By Amending Chapter 142, "Zoning Districts And Regulations," Article IV, "Supplementary District Regulations," Division 2, "Accessory Uses," Section 142-902 "Permitted Accessory Uses," Permitting Commercial Uses In Apartment Buildings In The RM-2 District Bounded By Indian Creek Drive, Collins Avenue, 41st Street And 44th Street; Amending Chapter 130, "Off-Street Parking," Article V "Parking Impact Fee Program," Section 130-131, "Generally," By Including An Exception To The Parking Impact Fee Program; Providing For Repealer, Severability, Codification And An Effective Date. **10:30 a.m. First Reading, Public Hearing.**
(Planning Department)

ACTION: Public Hearing held. **Ordinance approved on First Reading as amended.** Motion made by Vice-Mayor Smith; seconded by Commissioner Bower; Ballot vote: 5-1: Opposed: Commissioner Gross; Absent: Commissioner Cruz. Second Reading and 2nd Public Hearing scheduled for January 14, 2004 after 5:00 p.m. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Jorge Gomez, Planning Director, introduced the item. He corrected the record on page 173 section (i) of the Commission Agenda. It should read "....., sundry shop, or food market uses.....".

Lucia A. Dougherty, Esq. (Greenberg Traurig), spoke.

Presentation given by Bernard Zyscovich, Zyscovich, Inc.

Commissioner Gross stated that he drove from 41 Street to 44 Street to see how compelling the argument that it will create a link to 41 Street is, and it is not very compelling. He explained that from an urban point of view he doesn't see the real advantage. To change the zoning for one particular project is a bad idea.

Discussion continued.

Commissioner Bower suggested that the front be made out of glass for the customers to get a view.

Lucia A. Dougherty, Esq. (Greenberg Traurig) stated that Commissioner Bower makes a good suggestion and asked to make it a permitted use indoors with a special exception if there is outdoors use. The permit can be revoked if it causes a problem.

Jorge Gomez, Planning Director, suggested adding that any outdoor uses on Indian Creek will be limited to 11:00 p.m. and no variances from these provisions.

Amendments:

1. Any outdoor uses on Indian Creek will be limited to 11:00 p.m.
2. No variances from the provisions.

Handout or reference materials:

1. Notice of Ad in The Miami Herald

6:01 p.m.

R5D An Ordinance Amending Chapter 142 "Land Development Regulations" Of The City Code, Division 7, CCC Civic And Convention Center District, Of The Land Development Regulations Of The City Code In Order To Allow Waivers Of Development Regulations By A Five-Sevenths Vote Of The City Commission For Developments Pertaining To Government-Owned Or Leased Buildings, Uses And Sites Which Are Wholly Used By, Open And Accessible To The General Public, Or Used By Not-For-Profit, Educational, Or Cultural Organizations, Or For Convention Center Hotels, Or Convention Center Hotel Accessory Garages, Or City Utilized Parking Lots, Provided They Are Continually Used For Such Purposes; And To Amend The Public Notice Requirements For Such Waivers, Providing For Codification, Repealer, Severability And Effective Date. **2:00 p.m. First Reading, Public Hearing**

(Planning Department)

(Continued from September 10, 2003)

ACTION: Public Hearing held. **Ordinance approved on First Reading as amended.** Motion made by Vice-Mayor Smith; seconded by Commissioner Cruz; Ballot vote: 6-1; Opposed: Commissioner Bower. Second Reading and 2nd Public Hearing scheduled for January 14, 2004. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Amendment: Section 142-368 – last sentence "....or cultural organizations with 501C (3) designation under the U. S. Internal Revenue Code as set forth herein."

Handout or reference materials:

1. Notice of Ad in The Miami Herald

5:40:06 p.m.

R5E Proposed Amendment To The Goals, Policies & Objectives And The Future Land Use Map Of The Comprehensive Plan.

An Ordinance **1)** Amending The Future Land Use Map Of The Comprehensive Plan By Changing The Future Land Use Category For A Parcel Of Unplatted Land Of Approximately 5.6 +/- Acres On Terminal Island, Located South Of The MacArthur Causeway, From The Current Land Use Category I-1, Light Industrial With A Floor Area Ratio (FAR) Of 1.0, To The Proposed Future Land Use Category Of "RM-PRD," Multifamily, Planned Residential Development With A Floor Area Ratio (FAR) Of 1.0; And **2)** Amending Part II: Goals, Objectives And Policies Of The City Of Miami Beach Comprehensive Plan, By Amending Policy 4.2 Of Objective 4 "Hurricane Evacuation," Of The Future Land Use Element; By Amending Policy 1.2 Of Objective 1: "Port Facility Expansion" Of The "Ports, Aviation And Related Facilities" Element; Amending Policy 9.2 Of Objective 9, "Density Limits," Of The "Conservation/Coastal Zone Management," Element, In Order To Allow The Requested Future Land Use Category For The Subject Property; Directing Transmittals Of This Ordinance And All Applicable Documents To Affected Agencies. **5:01 p.m. First Reading, Public Hearing.**

(Planning Department)
(Continued from September 10, 2003)

ACTION: Item heard in conjunction with item R5F. Public Hearing open and continued. Motion made by Commissioner Bower to open and continue the Public Hearing until February 25, 2004 at 5:01 p.m.; seconded by Commissioner Steinberg; Ballot vote: 5-0; Absent: Commissioners Cruz and Gross. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Jorge Gomez, Planning Director, introduced the item. He stated, for the record, that all of the evidence and testimony given at the Planning Board be made part of this record. He also introduced, for the record, some research relative to military installations being pressured by sprawl and the incompatibility of land uses around them.

Rich Murphy, Commanding Officer of Civil Engineering Unit –Coast Guard in Miami, read the Coast Guard's position into the record. The Coast Guard expressed their opposition.

James F. Silvers spoke and requested the Public Hearing be continued.

Handout or reference materials:

1. Notice of Ad in The Miami Herald
2. Color booklet titled "Marina Point On South Beach" re: PowerPoint presentation
3. Marina Project on South Beach Plans Revised November 19, 2003, Project Data
4. Company Profile from Merle Woods & Associates, Specialists in the Sale, Purchase, Charter & Construction of the World's Finest Yachts.

5:41:40 p.m.

R5F Proposed Amendment to Official Zoning District Map & Land Development Regulations. An Ordinance Amending The Official Zoning District Map, Referenced In Section 142-72 Of The Code Of The City Of Miami Beach, Florida, By Changing The Zoning District Classification For A Parcel Of Unplatted Land Of Approximately 5.6 +/- Acres On Terminal Island, Located South Of The MacArthur Causeway From The Current I-1 Light Industrial, To The Proposed Zoning Classification RM-PRD3, Multifamily Planned Residential Development, With A Floor Area Ratio (FAR) Of 1.0; Amending Chapter 142 "Zoning Districts And Regulations," Amending Subdivision III. "RM-PRD Multifamily, Planned Residential Development District" By Adding Subdivision IIIB. "Development Regulations For RM-PRD3;" Providing For Codification, Repealer, Severability, And An Effective Date.

5:01 p.m. First Reading, Public Hearing.

(Planning Department)

(Continued from September 10, 2003)

ACTION: Public Hearing opened and continued to February 25, 2004 at 5:01 p.m. See item R5E.

Handout or reference materials:

1. Notice of Ad in The Miami Herald

R6 - Commission Committee Reports

R6A Verbal Report Of The Special Finance And Citywide Projects Committee Meeting Of December 5, 2003: **1)** Discussion On Fire Station No. 2; **2)** A Resolution Authorizing The City Manager To Decline In Writing The Right Of First Offer Transaction As Required Pursuant To The Terms Of Section 36.2 Of The Agreement Of Lease ("Lease") Between City Of Miami Beach, Florida ("Owner") And Pelican Development, LLC ("Tenant") Dated As Of December 1, 1999; Further Authorizing The City Manager And City Attorney To Approve/Disapprove The Transfer Of Tenant's Leasehold Interest In The Project As Required Under The Terms Of Section 10.5 Of The Agreement Of Lease Upon Completion Of The City's Review Of Information, As Provided In The Lease, Relative To The Proposed Transfer Of The Project; And **3)** Update Of Mt. Sinai Financial Status - Issuance Of Bonds To Refinance Existing Issues.

ACTION: Item not reached. Lilia Cardillo to place report on the January 14 Consent Agenda.

Handout or reference materials:

1. Report of the Finance & Citywide Projects Committee Meeting of 12/5/03

R6B Verbal Report Of The Land Use And Development Committee Meeting Of December 8, 2003: **1)** Discussion On How To Propose A Legislation To Create And Adopt A Dune Project In Conjunction With The Miami Beach Parks And Recreation Department, ECOMB, Teen Job Corp And The Miami- Dade Extension; **2)** Discussion Regarding A Resolution To Consider An Amendment To The Land Development Regulations Of The City Code By Amending Chapter 142, "Zoning Districts And Regulations," Of The City Code; Division 13, "MXE Mixed Use Entertainment District," Section 142-542, "Conditional Uses," To Include Public And Private Cultural Institutions Open To The Public As A Conditional Use In This Zoning District; **3)** Discussion On North Shore Traffic Study; **4)** Discussion Regarding Approval Of The Location Of The Miami Beach Convention Center For Conventions, Expositions Or Events Involving Adult Materials; And 5) Discussion Regarding Ordinance Amendment To Allow Commercial And Retail Accessory Uses In Apartment Buildings In The RM-2, Residential Multifamily Medium Intensity Zoning District.

ACTION: Item not reached. Lilia Cardillo to place report on the January 14 Consent Agenda.

R6C Verbal Report Of The Community Affairs Committee Meeting Of December 9, 2003: **1)** Discussion On Alcohol And Nudity Ordinance.

ACTION: Item not reached. Lilia Cardillo to place report on the January 14 Consent Agenda.

Handout or reference materials:

1. Report of the Community Affairs Committee Meeting of December 9, 2003.

R7 - Resolutions

4:04:27 p.m.

R7A Approval Of The Miami Beach Convention Center For Events Involving Adult Materials. A Resolution Approving The Miami Beach Convention Center As A Location For Conventions, Expositions Or Events Involving Adult Materials, Pursuant To The Provisions Of Section 847.0134, Florida Statutes. **3:00 p.m. Public Hearing.**
(Planning Department)

ACTION: Public Hearing held. **Resolution No. 2003-25431 adopted as amended.** The Planning Board resolution was used as the base resolution. Motion made by Commissioner Steinberg; seconded by Vice-Mayor Smith. Voice vote: 7-0. Second public hearing scheduled for January 14, 2004. R. Parcher to notice. Lilia Cardillo to place on the Commission Agenda. Jorge Gomez to handle.

Jorge Gomez, Planning Department Director, presented the item.

Mathew Bank, producer of the event, spoke.

Minnette Benson spoke.

Lily Pardo spoke.

David Kelsey spoke.

Heather Frank and Jessica Moore spoke.
Aynee Peralta spoke.
David Phelps, Gay and lesbian Foundation of South Florida, spoke.
Rebecca Dawn Birch spoke.

Commissioner Bower stated she is not focusing on this event, but all types of events which could be held at the Miami Beach Convention Center if this is approved. She wanted to clarify that approving this resolution will open the doors to any type of adult material in the future.

Jorge Gomez, Planning Director, reviewed the Planning Board's resolution and their recommendations.

Commissioner Steinberg stated that these types of shows should be shifted south away from Beach High to Hall "C" and explicit materials should not be able to be viewed from the street.

Commissioner Bower requested that language be added that only legal activities and materials be allowed and guidelines be established.

Commissioner Gross asked if the Convention Center Guidelines cover some of these areas.

Doug Tober, General Manager, SMG, stated that the economic impact events are the trade shows. Part of the contract states that all events must abide by the laws and regulations. The guidelines that the Los Angeles Convention Center has, actually prohibits nudity and any kind of lewd behavior or any kind of performance that might make a dance event more adult than it may already be.

Amendments:

- 1. Guidelines: Review the Los Angeles Convention Center guidelines and add to guidelines no nudity or lewd behavior.**
- 2. Convention south to Hall "C" away from Miami Beach High School.**
- 3. No material shall be visible from any public right of way.**
- 4. Only legal activities and materials.**
- 5. City Commission review and approval.**
- 6. Enter from Convention Center Drive.**
- 7. Consideration should be given to promoter's reputation and financial resources.**

Gary Held, Assistant City Attorney, spoke.

Vice-Mayor Smith asked whether the City Commission is being selective by having these guidelines for these types of shows but no guidelines for other shows, and how that plays out in a constitutional argument.

Murray Dubbin, City Attorney, stated that there are existing guidelines being used which govern the financial capability and reputation of a promoter. He recommends that the guidelines be applicable to all events.

Doug Tober, General Manager, SMG, stated that there are presently guidelines, and each user of the Center must complete a rental application that asks about their financial

wherewithal and references.

Handout or reference materials:

1. Notice of Ad in The Miami Herald
2. Email from Roy James to Special Master to the Attention of the City Commission dated 12/9/03 RE: Gay Expo at the Miami Beach Convention Center to be held in June 2004.
3. Los Angeles Convention Center Operating Guidelines for the Gay Erotic Expo, 9/20-9/22/03

6:22:39 p.m.

R7B A Resolution Approving Amendment No. 1, In The Amount Of \$1,913,302, To The Agreement With CH2MHill, For The Design, Construction Documents, Bid, Award And Construction Administration, For The Bayshore Neighborhood Right Of Way Improvement Project; And Appropriating Funds In The Amount Of \$645,094, As Follows: \$117,610 From General Obligation Bond Funds, \$295,736 From Series 2000 Stormwater Bond Funds, And \$231,748 From Series 2000 Water And Sewer Bond Funds, To Completely Fund The Additional Services.

(Capital Improvement Projects)

ACTION: Resolution No. 2003-25432 adopted. Motion made by Commissioner Bower; seconded by Vice-Mayor Smith. Voice vote: 5-0; Absent: Commissioners Cruz and Garcia. Patricia Walker to appropriate the funds. Tim Hemstreet to handle.

Vice-Mayor Smith stated that he is troubled by the amount but he wants this project to move forward and he knows that the Administration will try to make it less than the \$1.9 million.

Commissioner Gross stated that it has taken eight months to negotiate the fees. He emphasized that the fees should probably be negotiated up front.

11:50:13 a.m.

R7C A Resolution Authorizing The Mayor And City Clerk To Execute A Home Investment Partnerships (HOME) Program Agreement Between The City And Carrfour Supportive Housing, Providing \$309,469 In HOME Program Funds From A HOME Program Notice Of Funding Availability (NOFA) Utilizing Funds From Fiscal Year 2002/03, Towards The Cost Of The Rehabilitation Of A Building, Located At 530 Meridian Avenue, Miami Beach, To Provide Fifty-Five HOME Program Rental Units For Income-Eligible Residents In Accordance With The HOME Program Requirements.

(Neighborhood Services)

ACTION: Resolution No. 2003-25433 adopted as amended. Agreement amended. Motion made by Commissioner Bower; seconded by Commissioner Cruz. Voice vote: 6-1; Opposed: Commissioner Garcia. Vivian Guzman to handle.

Maria Pellerin-Barcus, President of Carrfour Supportive Housing, spoke.

Mayor Dermer requested that the City and Carrfour look for funds to secure permanent security. Commissioner Bower accepted this amendment.

Commissioner Bower asked Carrfour to look at having a person living at the facility to

working part-time to handle security.

Commissioner Steinberg stated that he has a problem with the Miami Beach preference of this program for the Miami Beach homeless population, because it is only one year preference. He wants this addressed now to secure the preference.

Exhibit "D", titled Sunsouth Intake Plan - the last paragraph should be changed as follows: "After one year of operation, the intake plan will be re-evaluated and the Miami Beach preference ~~may will be extended and may~~ be modified by Carrfour and the City of Miami Beach ~~or extended~~, subject to the approval of all funding sources for the building, the intent being.....".

City Clerk's Note: This document is not in the Commission Agenda. See the Agreement handed out on the floor.

All parties agreed to this change in language.

Stephanie Berman, Director of Resident and Property Services for Carrfour, spoke.

David Kelsey stated that the bus bench at 5th Street and Meridian needs additional lighting.
Fred Beckmann to handle.

Harry Sherry spoke.

Amendments:

1. City and Carrfour to look for funds to secure permanent security
2. Carrfour to look at having a person living at the facility working part-time to handle security
3. Amend: Sunsouth Intake Plan - the last paragraph should be changed as follows: "After one year of operation, the intake plan will be re-evaluated and the Miami Beach preference ~~may will be extended and may~~ be modified by Carrfour and the City of Miami Beach ~~or extended~~, subject to the approval of all funding sources for the building, the intent being.....".
4. Add after the last sentence of Article II : "Owner will provide preference to formerly Miami Beach homeless individuals as described in the Sunsouth Intake Plan (Exhibit D)."

Handout or reference materials:

1. Amendment to HOME Program Agreement.

2:24:26 p.m.

R7D A Resolution Approving The City's State Legislative Agenda For The 2004 Session Of The Florida Legislature.

(Economic Development)

ACTION: Resolution No. 2003-25434 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Bower. Voice vote: 7-0. Kevin Crowder to handle.

Vice-Mayor Smith stated that it is amazing that Convention Development Taxes can be used for golf courses in the City of Miami, but the City of Miami Beach is not able to do the same for its golf courses. He asked if the reason for this is an error or an oversight.

Jorge Gonzalez, City Manager, stated that when the law was passed originally it was not allowed on either case but apparently the City of Miami had it changed for that purpose.

Commissioner Bower thanked the Administration for including the Education initiatives.

2:30:09 p.m.

R7E A Resolution Approving The Issuance And Sale Of Not To Exceed \$115,000,000 Principal Amount Of City Of Miami Beach Health Facilities Authority Hospital Revenue Refunding Bonds, Series 2004 (Mount Sinai Medical Center Of Florida), By The City Of Miami Beach Health Facilities Authority, Including The Approval Required By Section 147(F) Of The Internal Revenue Code Of 1986, As Amended; Providing That Said Bonds Shall Not Constitute A Debt, Liability Or Obligation Of The City Or The State Of Florida Or Any Political Subdivision Thereof But Shall Be Payable Solely From The Revenues Provided Therefore; And Providing An Effective Date.
(Finance Department)

ACTION: Resolution No. 2003-25435 adopted as amended. Motion made by Commissioner Garcia; seconded by Commissioner Steinberg. Voice vote: 7-0. Patricia Walker to handle.

Jorge Gonzalez, City Manager, stated that what the bond counsel is advising the City is appropriate and can be done.

Patricia Walker, Chief Financial Officer, gave an oral presentation.

Luis Reiter Esquire, Sanders & Dempsey, Bond Counsel to the Authority and to the City, spoke.

Mayor Dermer asked Mr. Reiter if his testimony is that there is absolutely no liability on the part of the City of Miami Beach if the City Commission votes to approve the refinancing.

Luis Reiter Esquire, Sanders & Dempsey Bond, Counsel to the Authority and to the City, stated that the answer is "yes", although he cannot say that somebody is not going to sue the City or the Authority at some point if something goes wrong.

Mayor Dermer asked Mr. Reiter's legal opinion as a lawyer regarding the City of Miami Beach's liability in this case.

Luis Reiter Esquire, Sanders & Dempsey, Bond Counsel to the Authority and to the City, stated that State Law makes it very clear that both the City of Miami Beach and the Authority have no liability for repaying the bonds and it is solely the obligation of the borrower.

Alex Mendez, Chief Financial Officer of Mount Sinai Hospital, spoke.

Murray Dubbin, City Attorney, stated that the action taken today is based on the receipt of the letter. If the letter is not received, the action is null.

Amendment:

Now, therefore clause: add last sentence of Section 1. Code~~-,~~such approvals to become effective when notice is filed by SunTrust Bank, As trustee (the "Trustee"), on or prior to December 31, 2003, with Nationally Recognized Municipal Securities Information Repositories to the effect that the Events of Default described in that certain Notice of Default dated November 18, 2003

from the Trustee have been waived or resolved."

2:12:33 p.m.

R7F A Resolution Authorizing The Mayor And City Clerk To Execute The Attached Settlement Agreement Between La Gorce Country Club, Inc., And The City Of Miami Beach, And Authorizing The City Manager And City Attorney To Take Such Actions As May Be Necessary To Carry Out The Intent Hereof.
(City Attorney's Office)

ACTION: Item deferred until January 14, 2004. Commissioner Bower volunteered to bring the neighborhood into the settlement process. Lilia Cardillo to place on the Commission Agenda. City Attorney's Office to handle.

11:04:14 a.m.

Supplemental Materials: (Resolution)

R7G A Resolution Authorizing The City Manager To Decline In Writing The Right Of First Offer Transaction As Required Pursuant To The Terms Of Section 36.2 Of The Agreement Of Lease ("Lease") Between City Of Miami Beach, Florida ("Owner") And Pelican Development, LLC ("Tenant") Dated As Of December 1, 1999; Further Authorizing The City Manager And City Attorney To Approve/Disapprove The Transfer Of Tenant's Leasehold Interest In The Project As Required Under The Terms Of Section 10.5 Of The Agreement Of Lease Upon Completion Of The City's Evaluation Of Information In Connection With The Proposed Transfer Of The Project And The Proposed Purchaser.
(City Manager's Office)

ACTION: Resolution No. 2003-25436 adopted as amended.

Motion No. 1:

Motion made by Commissioner Gross to delegate to the City Manager the ability to approve the purchase, based on the responses to the questionnaire submitted, and delegating to the City Manager to work out the issue regarding the parking spaces (69 parking spaces). If the issues cannot be worked out, to bring back to the City Commission; seconded by Commissioner Bower; Voice vote: 7-0. Christina Cuervo to handle.

Motion No. 2:

Motion made by Vice-Mayor Smith to adopt the resolution (right to reject); seconded by Commissioner Steinberg; Voice vote: 7-0. Christina Cuervo to handle.

Christina Cuervo, Assistant City Manager, presented the item.

Commissioner Steinberg asked about the ability to sub-lease which was discussed at the Finance and Citywide Projects Committee meeting.

Christina Cuervo, Assistant City Manager, stated that in Article 10 there is a provision which allows Pelican Development to sub-lease within the garage up to 20% of the parking spaces without seeking the City's consent. The question which was asked is, can they sub-lease to more than one person at 20%? The answer is yes; however, there is an absolute clause in the agreement that limits it to 50%, in aggregate, and at which point they would have to get

the City's approval to exceed this amount because it would constitute a transfer. Any sub-lease has to be in conformance with the provision of the lease. Article 6 of the Lease references "use," and use" has to be for public use.

Joel Minsker, Esq., City's Legal Counsel, stated that there are some questions regarding the 20%. He stated that regarding the sub-lease, they can probably not exceed the 20%. He stated that the total number of spaces in the garage at 20% would be the number of spaces.

Commissioner Steinberg asked if they could sub-lease 20%, 20%, and 10%.

Murray Dubbin, City Attorney, stated that in reading the contract as a whole, his opinion is that once they get to the 20% of the 340 parking spaces, they will have to come to the City Commission for approval.

Commissioner Gross asked if at the time of approval the issue can be clarified, so that there will not be less than so many spaces for the public.

Murray Dubbin, City Attorney, explained this could not be done without changing the language of the contract. He also stated that 20% of 340 total spaces is 70 spaces (68 actually), and if one subtracts 70 from 340, that amount should be the amount available to the public.

Motion made by Commissioner Gross to amend so that there is not less than 170 spaces available to the public; no second offered and discussion continued.

Christina Cuervo, Assistant City Manager, stated that 344 spaces at 20% is 68.8 spaces.

Murray Dubbin, City Attorney, stated that the contract provides that those commercial ventures that require parking can be deducted from the amount available to the public.

David Ducote, Principles of Pelican Development, stated that the RFP required less than 270 spaces. He stated that 345 spaces were built. It has never been determined whether the 20% applies to the 270 or the 345.

Wayne Ducote, Principles of Pelican Development, spoke.

Joel Minsker, Esq., City's Legal Counsel, stated that the language in the Lease is very clear. It reads 20% of the parking on the premises.

Commissioner Steinberg stated that he would like clarification as to whether the 20% is the cap or is it 20% per sub-let. The tenant and the prospective purchaser acknowledge the City's interpretation of the lease and it will not be contested.

Motion made by Commissioner Gross that the Commission is delegating to the Administration the ability to approve purchaser. The Commission should also delegate to the Administration the ability to approve the purchase based on the responses to the questionnaire submitted and delegating to the Administration to work out the issue regarding the parking spaces (69 parking spaces). If the issues cannot be worked out, bring it back to the City Commission.

Motion made by Vice-Mayor Smith to adopt the resolution (right to reject); seconded by

Commissioner Steinberg; Voice vote: 7-0. Christina Cuervo to handle.

Mayor Dermer stated that Pelican should be acknowledged for the good job done in building the garage.

Christina Cuervo, Assistant City Manager, clarified that this is the parking garage on Collins and 10th.

6:29:51 p.m.

R7H A Resolution Relating To The City Attorney; Updating And Revising His Terms Of Engagement; Receiving The City Attorney's Annual Report; Finding His Performance To Be Satisfactory And Approving The Award Of Deferred Compensation Pursuant To The Internal Revenue Code, And Setting An Effective Date.
(City Attorney's Office)

ACTION: Resolution No. 2003-25437 adopted. Motion made by Vice-Mayor Smith; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Cruz. Murray Dubbin, City Attorney, informed the City Commission that he has a resolution requesting the deferred compensation for retirement and that the COLA is terminated.

Commissioner Gross stated that the City Attorney's Office has performed very well on the Bert J. Harris litigation and the way it was handled in Tallahassee, and his office is very responsive whenever he asks for information or research. The issue with Convention Development Taxes and Miami-Dade County troubles him. He finds faults with the way the agreement was drafted. The agreement should have made sure to define the pledge and this is a very significant oversight which will have a negative impact on our City. There have been a series of issues that have come up at the City Commission, where in some cases; the City Attorney could have been more forceful in protecting the City Commission from doing things that are not in their purview, and an example of that is the La Gorce fence issue. He explained that the role of the City Attorney is to let the City Commission know when they are out of bounds. He stated that outside legal fees should be reduced and whatever the City Attorney can do to accomplish this will be good. More attention needs to be paid when drafting agreements such as when ordinances are drafted by non-lawyers in the Planning Department for land use issues. Commissioner Gross feels that those ordinances and contracts should be strengthened by the Legal Department.

Vice-Mayor Smith stated that he has discussed the pluses and the minuses of the Legal Department with Mr. Dubbin and they both know where improvements can be made. He is pleased with the performance of the Legal Department for the most part. He explained that with the Convention Development Taxes, the issue was very complicated and very contentious negotiations took place while Neisen Kasdin was Mayor. He stated that former Mayor Neisen Kasdin actively participated in the drafting of the agreement and outside counsel was retained to advise the City on the terms and conditions of that agreement. He explained that everyone understood that the word "pledge", which is a term of art in municipal/government business, means bonds. He explained that when the City or the County's full faith and credit is pledged, it means issuing bonds. He stated that to blame the City Attorney's Office for the term not defined is unfair. He stated that if the City has to go to court to decide on the definition of "pledge", the City will prevail.

Mayor Dermer stated that the counsel involved was first class and the agreement is a strong

agreement. He explained that basically what happened was the misuse of the word "pledge" by the Miami-Dade County Commission and changing the date, which cannot be done with any contract. He stated that the date has never been questioned as being December 1st and the Miami-Dade County Commission changed it to March 15, 2004 without the consent of the City of Miami Beach. He is very happy that the Bureau and the Chamber of Commerce are on the City's side on this issue. He also stated that he agrees with Vice-Mayor Smith's analysis of this issue.

Commissioner Steinberg agrees with Mayor Dermer and Vice-Mayor Smith. If the City needs to litigate, he feels the City will prevail.

Commissioner Bower stated that she agrees with Commissioner Gross that the City Attorney needs to be more forceful in keeping the City Commission out of trouble. She suggested that the Legal Department reviews ordinances more carefully as to avoid problems in the future.

6:44:56 p.m.

Supplemental Materials: (Resolution)

R71 A Resolution Relating To The Annual Evaluation Of The City Manager; Receiving The City Manager's Report; Adjusting His Salary And Benefits Accordingly; Granting A Performance Bonus And Deferred Compensation; Adjusting His Employment Contract Accordingly; And Setting An Effective Date

(City Manager's Office)

(Memorandum And Resolution To Be Submitted In Supplemental)

ACTION: Resolution No. 2003-25438 adopted. Motion made by Commissioner Steinberg; seconded by Commissioner Bower; Voice vote: 6-0; Absent: Commissioner Cruz.. T. C. Adderly to handle.

Jorge Gonzalez, City Manager, stated that his evaluation should be deferred until January, 2004, since the members of the City Commission have not had a chance to discuss it with him individually.

9:40:36 a.m.

R7J A Resolution Accepting The Proposed Guaranteed Maximum Price Of \$8,096,580, Submitted Pursuant To The Agreement For Pre-Construction Services Between The City Of Miami Beach, Florida, And Jasco Construction Company For Construction Management At Risk Services Pursuant To RFQ No. 117-99/00, Entitled Construction Management At Risk For The Fire Station No. 2 Renovation And Expansion, As Previously Amended, And Amending The Agreement To Include Construction Of A Fire Department Dormitory Building, Renovate The Existing Historic Fire Station #2 For Use As A Fire Department Administration Building, And Complete Construction Of The Site Drainage System Serving The Fire Station Site And Public Works Yard; Further, Approving And Appropriating \$4,453,396, Which Includes A Contingency Amount Of \$416,875, And Fixtures, Furniture & Equipment, In The Amount Of \$240,930, And Additional Services For STA, In The Amount Of \$190,000, To Complete This Work.

(Capital Improvement Projects)

ACTION: Resolution No. 2003-25439 adopted. Motion made by Vice-Mayor Smith; seconded by Commissioner Garcia; Voice vote: 6-1; Opposed: Commissioner Gross. Patricia Walker to appropriate the funds. Tim Hemstreet to handle.

Motion made by Commissioner Steinberg; seconded by Commissioner Garcia. Discussion continued.

Commissioner Gross is opposed to this item because the City could serve the public better by putting this item out for bids since the City's Architect estimate shows the City would save \$1.3 by bidding it out.

Robert Middaugh, Assistant City Manager, stated that this is a case of known vs. unknown. He explained that on low bid contracts, the City is not able to attract as high quality subcontractors.

Jorge Gonzalez, City Manager, stated that the motion needs to be made on the resolution distributed this morning. He stated that at the meeting of the Finance and Citywide Projects Committee, the funding sources needed to be identified and that was distributed to the City Commission this morning. He explained that the funding is a combination of funds from the General Fund Capital Projects Reserve, the Capital Fund Capital Replacement Fund, Resort Tax, GO Bond Interest Earnings and Mid-Beach Quality of Life Funds. The resolution establishes an intent to reimburse the City and continue to seek funding from the Health Facilities Authority, grants and other sources, and the reimbursement order first will go to repay the funds from the Resort Tax, followed by the Capital Reserve and the Mid-Beach Quality of Life Funds.

Commissioner Steinberg withdrew his motion.

Vice-Mayor Smith made a motion to approve; seconded by Commissioner Garcia;

Commissioner Bower asked what year the Quality of Life Funds was coming from.

Jorge Gonzalez, City Manager, stated that it was previous year's funds.

City Clerk's Note: At the Commission Meeting a new Commission Memorandum and Resolution titled Supplement to Agenda Item R7J was distributed.

Handout or reference materials:

1. Commission Item Summary, Commission Memorandum and Resolution titled Supplement to Agenda Item R7J dated 12/10/03.

10:14:48 a.m.

R7K A Resolution Calling For A Special Election To Be Held On Tuesday, March 9, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether The City Of Miami Beach Shall Sell Park/Waterfront Property Located At 2620 Biarritz Drive In Miami Beach, Florida (Survey And Legal Description Of Property On File In City's Public Works Department), With The Sale Proceeds To Be Utilized For Renovation Of The City's Normandy Shores Golf Course.
(City Manager's Office)

ACTION: Resolution No. 2003-25440 adopted as amended removing the word "park."
Motion made by Vice-Mayor Smith; seconded by Commissioner Steinberg. Voice vote: 7-0.
Robert Parcher to handle.

Murray Dubbin, City Attorney, stated that some of the City's park properties are designated park, and in his judgment if the City Commission wants to remove the word "park" from the ballot and leave "waterfront", it will be properly descriptive of the property.

City Clerk's Note: At the Commission Meeting a new Resolution was distributed replacing the Resolution in the Agenda. The change was in the title of the ballot question from "Sale of City-owned Park/waterfront Property" to "2620 Biarritz Drive".

R9 - New Business and Commission Requests

R9A Board and Committee Appointments.
(City Clerk's Office)

ACTION:

Beach Preservation Board:

Ana Cordero	Term expires 12/31/05	Appointed by Commissioner Cruz
Jerry Marsh	Term expires 12/31/05	Appointed by Mayor Dermer

Budget Advisory Committee:

Jack Beneviste	Term expires 12/31/-5	Appointed by Mayor Dermer
Marc Jacobson	Term expires 12/31/05	Appointed by Commissioner Cruz
Basil Vasiliou	Term expires 12/31/05	Appointed by Commission Steinberg

Committee on the Homeless:

Zeiven Beithcman	Term expires 12/31/05	Appointed by Mayor Dermer
Juan Rojas	Term expires 12/31/05	Appointed by Commissioner Gross

Committee for Quality Education in MB:

May Betancourt Term expires 12/31/05 Appointed by Commissioner Cruz

Community Development Advisory Committee:

Lazaro Martinez Term expires 12/31/05 Appointed by Commissioner Gross
Mariana Morgan Term expires 12/31/05 Appointed by Commissioner Cruz

Community Relations Board:

Jacqueline Hertz Term expires 12/31/05 Appointed by Commissioner Cruz

Convention Center Advisory Committee

Ivor Rose.....Term expires 12/31/05 Appointed by Commissioner Cruz

Debarment Committee:

David Wieder Term expires 12/31/05 Appointed by Commissioner Smith

Fine Arts Board:

Laura Bruney Term expires 12/31/05 Appointed by Commissioner Smith
Gordon Saks Term expires 12/31/05 Appointed by Commissioner Cruz

Loan Review Committee:

Barry Michael Ragone Term expires 12/31/05 Appointed by Commissioner Garcia

Marine Authority:

Morris Sunshine Term expires 12/31/05 Appointed by Commissioner Gross

Miami Beach Commission on the Status of Women:

Barbara Gillman Term expires 12/31/05 Appointed by Commissioner Cruz
Beth Gopman Term expires 12/31/05 Appointed by Mayor Dermer
Elizabeth Schwartz Term expires 12/31/05 Appointed by Commissioner Cruz

Miami Beach Florida Sisters Cities:

Bernice Martinez Term expires 12/31/05 Appointed by Mayor Dermer

Oversight Committee for General Obligation Bond:

Gary Knight Representative from the Transportation and Parking Committee

Parks and Recreational Facilities Board:

Jay Scharer Term expires 12/31/04 Appointed by Commissioner Cruz

Police Citizens Relations Committee:

Hans Bratt Term expires 12/31/05 Appointed by Commissioner Cruz
Michael Finesilver Term expires 12/31/05 Appointed by Mayor Dermer

Production Industry Council:

Sheila Duffy-Lehrman Term expires 12/31/05 Appointed by Commissioner Cruz

Public Safety Advisory Committee:

Jose Manzanares Term expires 12/31/05 Appointed by Commissioner Cruz

Safety Committee:

Mitchell Korus	Term expires 12/31/05	Appointed by Commissioner Gross
Antonio Purrinos	Term expires 12/31/05	Appointed by Commissioner Cruz
Transportation and Parking Committee:		
Ron Bernesky	Term expires 12/331/05	Appointed by Commissioner Cruz

R9A1 Nominate Michael Gongora To The Board Of Adjustments.
(Requested By Commissioner Richard L. Steinberg)
(Deferred from November 25, 2003)

ACTION: Item not reached.

9:38:14 a.m.

R9A2 Appoint Rosalia Lopez To Serve As Tenant Commissioner On The City's Housing Authority Committee.
(Requested By Mayor David Dermer)

ACTION: Motion made by Commissioner Bower to appoint Rosalia Lopez to the Housing Authority Committee, term expires 10/11/04; seconded by Commissioner Steinberg; Voice-vote: 6-0: Absent: Commissioner Cruz. R. Parcher to handle.

R9B(1) Dr. Stanley Sutnick Citizen's Forum. (1:30 p.m.)

ACTION: Item heard. No speakers.

6:46:29 p.m.

R9B(2) Dr. Stanley Sutnick Citizen's Forum. (5:30 p.m.)

ACTION:

1. Dr. Barry Michael Regona stated that there will be a Community Neighborhood meeting at La Gorce Island on December 15, 2003, and asked if there is a mechanism where the residents can be partners with the City and adopt an island. He is suggesting that maybe the citizens can pay for the lighting since the City only has funds for the planting.

Vice-Mayor Garcia stated that he wants to see the estimate for the lighting project. He does not think that it should be so high and wants to meet with the Administration to review it. **Tim Hemstreet to handle.**

Commissioner Steinberg asked the Administration to research a less expensive method of running the conduit under the street, such as directional boring. **Fred Beckmann to handle.**

Commissioner Garcia invited Dr. Regona to the meeting with Administration to discuss the lighting project.

2. David Kelsey expressed concerns from the Lincoln Road Marketing Group relative to the opening of the Ritz Carlton. The concern is that the block on Lincoln Road between

Collins and Washington is a problem because it's dirty. He stated that with the Ritz Carlton opening, the area needs to be cleaned, especially the corner of Collins Avenue and Lincoln Road. This area not only needs to be cleaned to make it look better, but landscaping needs to be added and suggested that concrete planters could be placed on each sidewalk. **Fred Beckmann to handle.**

Commissioner Steinberg stated that he remembers the idea of a center median with plants that was brought to the Transportation and Parking Committee when he was a member. He stated that he does not know whatever happen with this idea which also included a mid-block crossing for pedestrians.

Jorge Gonzalez, City Manager, stated that it is an "add/alternate" within the Washington Avenue Project and explained that this could be an RDA funded item. He added that this needs to be worked with the Washington Avenue Streetscape contractor. This is an element identified separately from the Washington Avenue project that can certainly be funded by RDA.

Commissioner Steinberg stated that this is a good idea.

Commissioner Gross stated that at the meeting to review the Washington Avenue Bids, the piece that included Lincoln Road between Washington and Collins Avenues, the design was very expensive. He explained that the feeling of the people present at this meeting was that it would be quicker to separate this portion from the Washington Avenue Project and have somebody design this separately.

David Kelsey continued to say that in the mean time the concrete planters could be placed with the appropriate plants to line the sidewalks, clean the sidewalks daily in order to make the linkage safe and people from the Ritz Carlton would want to walk to Lincoln Road.

3:00:10 p.m.

Supplemental Materials: (Additional Information and Revised Resolution)

R9C Charter Review Board Proposed Amendments To City Charter - Resolutions Proposing March 9, 2004 City Of Miami Beach Special Election.

~~A Resolution Calling For A Special Election To Be Held On Tuesday, March 9, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether City Charter Section 1.03(C) Requiring Voter Approval Before Floor Area Ratio May Be Increased On Properties Adjacent To Specified Waterbodies ("Atlantic Ocean, Government Cut, Indian Creek, Or Biscayne Bay") Be Amended To Delete Language Referencing Such Waterbodies, Thereby Expanding The Requirement Of Voter Approval To All Property Within City Limits; Exempting The Division Of Lots, Or The Aggregation Of Development Rights On Unified Abutting Parcels, Otherwise Permitted By Ordinance.~~

Supplemental Materials Title.

1. A Resolution Calling For A Special Election To Be Held On Tuesday, March 9, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether City Charter Section 1.03(C) Requiring Voter Approval Before Floor Area Ratio May Be Increased On Properties Adjacent To The Atlantic Ocean, Government Cut, Indian Creek, Or Biscayne Bay, Be Expanded To Apply To All Property Within City Limits; Exempting The Division Of Lots Or The Aggregation Of Development Rights On Unified Abutting Parcels (Otherwise Permitted By Ordinance), And Settlement Of Claims The City Has Notice Of As Of December 10, 2003.

ACTION: Discussion held. **Resolution No. 2003-25441 adopted.** Motion made by Commissioner Bower; seconded by Commissioner Steinberg; Voice vote: 6-0; Absent: Commissioner Garcia. Robert Parcher to handle.

Murray Dubbin, City Attorney, stated his concern with this ballot question.

Steve Zack, Chairman of the Charter Review Board, spoke.

Victor Diaz, Member of the Charter Review Board, spoke.

Murray Dubbin, City Attorney, stated that the concept of this ballot question is fine; his concern is the practical effect is what is concerning him. He stated that if it is adopted today, he will examine it and if he feels there is a flaw in the language he will bring it up at the next City Commission meeting.

Frank Del Vecchio spoke.

City Clerk's note: At the December 9, 2003 Charter Review Board meeting, the above ballot question was amended. The new language will be presented to the City Commission via the Supplemental Materials. City Charter Section 1.03(b) was also approved and the Legal Department is preparing the ballot language which was submitted at the Commission Meeting.

2. A Resolution Calling For A Special Election To Be Held On Tuesday, March 9, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether City Charter Article V Regarding "Budget And Finance" Should Be Amended To Require That The City Commission Consider The Long Term Economic Impact (At Least Five Years) Of Legislative Acts.

ACTION: Discussion held. **Resolution No. 2003-25442 adopted.** Motion made by Commissioner Steinberg; seconded by Commissioner Bower. Voice vote: 7-0. Robert Parcher to handle.

3. A Resolution Calling For Special Election To Be Held On Tuesday, March 9, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether The City Charter Should Be Amended To Include Within The Citizen's Bill Of Rights A Policy Statement Of The City To Conserve And Protect Its Natural Resources And Scenic Beauty, Including The Abatement Of Air And Water Pollution And Of Excessive And Unnecessary Noise.

ACTION: Discussion held. **Resolution No. 2003-25443 adopted.** Motion made by Vice-Mayor Smith; seconded by Commissioner Bower. Voice vote: 7-0. Robert Parcher to handle.

4. A Resolution Calling For A Special Election To Be Held On Tuesday, March 9, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether City Charter Section 4.02(I) Regarding The City Manager's Power To Negotiate City Contracts And Agreements Be Amended By Deleting Language Subjecting Said Power To Approval Of The City Attorney, Retaining Language Requiring City Commission Approval Of City Manager Negotiations.

ACTION: Discussion held. **Resolution No. 2003-25444 adopted.** Motion made by Vice-Mayor Smith; seconded by Commissioner Steinberg. Voice vote: 7-0. Robert Parcher to handle.

5. A Resolution Calling For A Special Election To Be Held On Tuesday, March 9, 2004, For The Purpose Of Submitting To The Electorate Of The City Of Miami Beach A Question Asking Whether City Of Miami Beach Related Special Acts, Article II Thereof Entitled "Public Library" And Article III Thereof Entitled "Municipal Projects," Be Deleted As Said Language Is Obsolete And/Or Redundant.

(City Attorney's Office)

(Deferred from November 25, 2003)

ACTION: Discussion held. **Resolution No. 2003-25445 adopted.** Motion made by Vice-Mayor Smith; seconded by Commissioner Bower. Voice vote: 7-0. Robert Parcher to handle.

6. Discussion Regarding City Charter Section 1.03(b) Alienability Of Public Owned Lands.
(City Attorney's Office)
(Deferred from November 25, 2003)

ACTION: Discussion held. **Item referred by acclamation of the City Commission to a joint meeting to the Land Use and Development Committee and the Charter Review Board.** Jorge Gomez and Robert Parcher to coordinate a meeting. Legal Department to handle.

Steve Zack, Chairman of the Charter Review Board, spoke.

Victor Diaz, member of the Charter Review Committee, spoke.

Discussion held.

Steve Zack, Chairman of the Charter Review Board, stated that there is no ballot question before the City Commission at this time. The Charter Review Board is presenting a concept to the City Commission.

The issue of a supermajority (5/7) vote of both the Planning Board and the City Commission was also discussed.

Mayor Dermer suggested itemizing certain parcel to be protected.

Vice-Mayor Smith asked how a land swap would be handled. Board Member Victor Diaz responded.

Motion made by Commissioner Steinberg to refer this issue to a joint meeting of the Land Use and Development Committee and the Charter Review Board.

Mayor Dermer requested the Charter Review Board to come back after the joint meeting with a couple of options.

Commissioner Gross suggested the Administration to review past City Commission Agendas for the last several years to see if there are any actions the City Commission has taken which would have been affected by this Charter amendment. **Joe Damien to handle.**

The Charter Review Board requested guidance from the Commission on future issues. There are several outstanding issues to be addressed such as the Personnel Board issue and a fair salary for Miami Beach elected official in exchange for some restrictions on lobbying activities, for example.

Mayor Dermer stated that if an issue comes up the Board can be reassembled. He thanked the Board for their time and effort on this project.

Handout or reference materials:

1. New Language for City Charter Section 1.03, Powers of City, (b) Alienability of Property
2. Email from Constance Kaplan, Supervisor of Elections, Miami-Dade County, to Robert Parcher, City Clerk, dated 12/9/03, RE: Extension of deadline to submit ballot questions for 3/9/04 elections.

10:26:00 a.m.

R9D Nightlife Industry Task Force - Extension Of Hours For Wednesday, December 31, 2003 - New Year's Eve 2003.

(Economic Development)

ACTION: Motion made by Commissioner Bower to extend the hours of operation for those clubs with existing City Occupational Licenses that have a 5:00 a.m. liquor license, to 7:00 a.m. on Thursday, January 1, 2004, and to be allowed to serve alcohol. Any club which will remain open must notify the Police Department and Code Compliance by letter, by Friday, December 26, 2003, and must provide off-duty police officers if the Police Department deems appropriate and must comply with the following additional criteria;

1. No pending violations
2. Do not owe the City money
3. No outdoor entertainment or open-air entertainment
4. No permission granted to violate the noise ordinance

If there are any problems during the weekend, this action may be rescinded by the City Manager; Seconded by Commissioner Steinberg.; Voice vote: 7-0. Al Childress and Chief De Lucca to handle.

Steve Polisar, Chairman of the Nightlife Task Force, spoke.

Handout or reference materials:

1. Letter from David Kelsey, South Beach Hotel & Restaurant Associated, dated 12/5/03 to Christina Cuervo, Assistant City Manager, RE: Nitelife Request for Extending Serving Hours for New Year's Eve

4:46:02 p.m.

R9E Discussion Regarding The Scott Rakow Youth Center.

(Requested By Commissioner Saul Gross)

ACTION: Discussion held.

Joanie Stein spoke.
Cathy Tighite spoke.
Annette Cannon spoke.
Paul Stein spoke.
Julie Bercow spoke.

Commissioner Gross stated that the Administration needs to make this a priority and not handle like the rest of the projects. This project needs to get done. **Tim Hemstreet to handle.**

Commissioner Garcia stated that this should be made part of the agenda regularly and updates should be given each Commission Meeting until the project is completed. **Lilia Cardillo to place on the Commission Agenda. Tim Hemstreet to handle.**

R10 - City Attorney Reports

- R10A Notice Of Closed Executive Session.
Pursuant To Section 286.011, Florida Statutes, A Closed Executive Session Will Be Held During Lunch Recess Of The City Commission Meeting On December 10, 2003 In The City Manager's Large Conference Room, Fourth Floor, City Hall, To Discuss Settlement On The Following Cases:

La Gorce Country Club, Inc., Vs. City Of Miami Beach, Florida. Eleventh Judicial Circuit, General Jurisdiction Division, Case No. 03-12377 CA 30.

City Of Miami Beach Vs. La Gorce Country Club, Inc., Case No 3D03-2442, Third District Court Of Appeal

The Following Individuals Will Be In Attendance: Mayor David Dermer; Members Of The Commission: Matti Herrera Bower, Simon Cruz, Luis R. Garcia Jr., Saul Gross, Jose Smith And Richard Steinberg; City Attorney Murray H. Dubbin, City Manager Jorge Gonzalez, Chief Deputy City Attorney Donald Papy, First Assistant City Attorney Debora J. Turner And First Assistant City Attorney Gary Held.

ACTION: Announced and held.

Reports and Informational Items

- A City Attorney's Status Report.
(City Attorney's Office)

ACTION: Written report submitted.

- B Parking Status Report.
(Parking Department)

ACTION: Written report submitted.

- C Status Report On The Rehabilitation Project Of The Existing Building And The Addition To Fire Station No. 2.
(Capital Improvement Projects)

ACTION: Written report submitted.

- D Status Report On The General Obligation Bond Funded Project For The Rehabilitation Of Fire Station No. 4.
(Capital Improvement Projects)

ACTION: Written report submitted.

- E Informational Report To The Mayor And City Commission, On Federal, State, Miami-Dade County, And All Existing City Contracts For Renewal Or Extensions In The Next 180 Days.
(Procurement)

ACTION: Written report submitted.

End of Regular Agenda

**Miami Beach Redevelopment Agency
Commission Chambers, 3rd Floor, City Hall
1700 Convention Center Drive
December 10, 2003**

Chairman of the Board David Dermer
Member of the Board Matti Herrera Bower
Member of the Board Simon Cruz
Member of the Board Luis R. Garcia, Jr.
Member of the Board Saul Gross
Member of the Board Jose Smith
Member of the Board Richard L. Steinberg

Executive Director Jorge M. Gonzalez
Assistant Director Christina M. Cuervo
Assistant Director Mayra Diaz Buttacavoli
General Counsel Murray H. Dubbin
Secretary Robert E. Parcher

AGENDA

1. ROLL CALL

2. OLD BUSINESS

A Report Of The Itemized Revenues And Expenditures Of The Miami Beach Redevelopment Agency For The Month Of October 2003.

ACTION: Written report submitted.

End of RDA Agenda

Meeting adjourned 6:56:38 p.m.